HON'BLE MR JUSTICE A. GOPAL REDDY

WRIT PETITION NO.7031 OF 1997

DATE:03.04.2006

Between:

Ramnivas Mundada

..... PETITIONER

AND

The Commissioner of Civil Supplies
(Appeals) and Ex Officio Secretary to
Government, Food, Civil Supplies and
Consumer Affairs Department, Somajiguda,
Hyderabad & three others.

.....RESPONDENTS

HON'BLE MR JUSTICE A. GOPAL REDDY

W.P. No.7031 OF 1997

ORDER:

The petitioner is the Proprietor of M/s. Bhagwandas Mundada Grain and Kirana Merchant doing business in grains. On reliable information that the petitioner was indulging in clandestine business, the Inspector of Police, VCCS Department, Adilabad, on 7.2.1996 surprised his business premises and found huge variations in the ground stocks compared with that of the stock register, way bills etc. Hence, the stocks were seized and proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') were initiated against the petitioner, in which interim orders were obtained on 28.2.1996 for disposal of the seized stocks. Pending the said proceedings, the petitioner filed W.P.No.3707 of 1996 whereunder this Court directed not to dispose of the confiscated stocks till the culmination of the enquiry under Section 6-A of the Act. Thereafter, a show cause notice was issued to the petitioner on 22.5.1996 calling for explanation as to why the seized stock should not be confiscated to the Government for contravention of the provisions of the Act. The petitioner submitted his explanation inter alia stating that he purchased the seized stock through the market committee and the sale could not be materialized as the bullock carts of the farmers were in front of his house and hence, unless the sales are materialized the purchase cannot be entered in the registers. It was stated that the petitioner can close the accounts after closure of the business transaction in the day i.e. in the night and therefore, there is no variation. The District Collector-second respondent, before whom the 6-A proceedings were

pending, after considering the said explanation observed that if the contention of the petitioner that commodities that were purchased through the market committee were not taken entry in the account as the process of the market committee was not completed, taken to be true, still there was variation in other commodities and held that the petitioner had contravened the condition of licence. Accordingly, through the orders, dated 10.6.1996 the second respondent ordered for confiscation of 30 per cent of the seized stock to the Government by returning 70 per cent stock to the petitioner.

On appeal being filed by the petitioner, the first respondent, on re-appreciation the entire evidence on record and after hearing the petitioner, through orders dated 29.11.1996 modified the confiscation order passed by the second respondent by ordering confiscation of 20 percent of the seized stock instead of 30 per cent, as ordered by the second respondent. As seen from the impugned order, the first respondent after duly taking into consideration of the receipts dated 25.1.196, 27.1.1996, 30.1.1996, 7.2.1999 and 8.2.1996 observed that since inspection took place on 7.2.1996 at about 10.30 a.m. it is not clear as to why the petitioner could not enter the details of the transaction that took place on 25.1.1996, 27.1.1996 and 30.1.1996. Further, it was observed that it is doubtful whether the stocks purchased through the market committee on 7.2.1996 would have reached the business premises of the petitioner as the inspection had commenced at 10.30 a.m. in the morning itself. From the above, it is clear that only after due verification of the entire record and after elaborate discussion, the first respondent passed the impugned order. In view of the same, no infirmity is discernable from the impugned order warranting interference by this Court.

Accordingly, the Writ Petition is dismissed. No costs.

A. GOPAL REDDY, J

3rd APRIL, 2006.
Tsr